

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
MONDAY, FEBRUARY 7, 2005 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

ITEM-1: ROLL CALL.

ITEM-10: INVOCATION.

ITEM-20: PLEDGE OF ALLEGIANCE.

=== LEGISLATIVE SCHEDULE ===

Special Orders of Business

ITEM-30: James O. Goldsborough Day.
COUNCILMEMBER FRYE’S RECOMMENDATION: Adopt the
resolution.

ITEM-31: Approval of Council Minutes.

NON-AGENDA PUBLIC COMMENT

Non-agenda public comment is taken on Tuesday pursuant to the San Diego Municipal Code Section 22.0101.

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meeting, adopted on March 29, 2004, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the **Closed Session Agenda for Monday, February 7, 2005, scheduled to commence immediately following the conclusion of the regular open session meeting that day. The Closed Session may continue into Tuesday, February 8, 2005.**

NOTE: Members of the public wishing to address the City Council on any item on the Closed Session Agenda should reference the closed session item number from the Closed Session Docket on the speaker slip. Speakers may speak “in favor” or “in opposition” to the subject.

Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session 4) Refer matters discussed to closed session.

COUNCIL, CITY ATTORNEY, CITY MANAGER COMMENT

REQUESTS FOR CONTINUANCE

The Council will now consider requests to continue specific items.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Adoption Agenda, Consent Items

- ITEM-50: First Amendment to the Facility Franchise Agreement with San Diego Landfill Systems to Extend the Existing Agreement's Provisions Dealing with Disposal of Biosolids.
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance, which was introduced on 1/24/2005, Item 51.
- ITEM-100: Second One-Year Extension to Agreement with Allan Company to Operate the Miramar Recycling Center.
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-101: Department of Homeland Security Buffer Zone Protection Plan Initiative.
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-102: Amendment to Council Policy 700-42 Recreation Councils "Special Use Permits".
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-103: Appointment and Reappointment to the San Diego Planning Commission.
MAYOR MURPHY'S RECOMMENDATION: Adopt the resolution.
- ITEM-104: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-105: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region. (District 8.)
TODAY'S ACTION IS: Adopt the resolution.
- ITEM-106: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).
TODAY'S ACTION IS: Adopt the resolution.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Adoption Agenda, Consent Items (Continued)

ITEM-107: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.
TODAY'S ACTION IS: Adopt the resolution.

Adoption Agenda, Discussion, Other Legislative Items

ITEM-200: Two actions related to Additional Funding for the Central Police Garage Relocation Project. (City Heights Community Area. District 3.)
CITY MANAGER'S RECOMMENDATION: Adopt the resolutions.

ITEM-201: Preliminary Discussions with the San Diego Chargers. (Mission Valley and Serra Mesa Community Areas. Citywide.)
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

SPECIAL ORDERS OF BUSINESS

ITEM-30: James O. Goldsborough Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-776)

Honoring James O. Goldsborough for his 40-year career in journalism, his ethics, and his dedication to the Fourth Estate;

Commending James for standing up for his beliefs and defending the freedom of the press;

Proclaiming February 7, 2005, to be "James O. Goldsborough Day" in the City of San Diego.

ITEM-31: Approval of Council Minutes.

TODAY'S ACTION IS:

Approval of Council Minutes for the meetings of:

01/10/2005

01/11/2005

01/17/2005 – Adjourned

01/18/2005 – Adjourned

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COUNCIL, CITY ATTORNEY, CITY MANAGER COMMENT

REQUEST FOR CONTINUANCE

The Council will now consider requests to continue specific items.

ADOPTION AGENDA, CONSENT ITEMS

The following listed items are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*). Because these items may be handled quickly, if you wish to be heard submit your Request to Speak form prior to or at 2:00 p.m.

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:

Items 50.

RESOLUTIONS TO BE ADOPTED:

Items 100, 101, 102, 103, 104, 105, 106, and 107.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCE INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION:

- * ITEM-50: First Amendment to the Facility Franchise Agreement with San Diego Landfill Systems to Extend the Existing Agreement's Provisions Dealing with Disposal of Biosolids.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance, which was introduced on 1/24/2005, Item 51. (Council voted 9-0):

(O-2005-82)

Amending the Facility Franchise Agreement with the San Diego Landfill Systems, to extend the existing Agreement's provisions dealing with disposal of biosolids, for an additional five year period, under the terms and conditions set forth in Amendment No. 1;

Authorizing the expenditure not to exceed \$1,585,339, solely and exclusively, to fund the beneficial reuse of biosolids from the effective date of Amendment No. 1 through the end of Fiscal Year 2005;

Authorizing the City Auditor and Comptroller to transfer any excess funds to the appropriate reserves upon advice from the administering department.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-100: Second One-Year Extension to Agreement with Allan Company to Operate the Miramar Recycling Center.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-763)

Authorizing the City Manager to execute a second one-year extension to the Agreement with the Allan Company to operate the Miramar Landfill Recycling Center, under the terms and conditions set forth in Second Extension to Miramar Recycling Center Service Contract/Real Property Lease;

Authorizing the City Auditor and Comptroller to deposit the revenues received under this Second Extension to the Agreement in Fund No. 41210 – Recycling Fund.

CITY MANAGER SUPPORTING INFORMATION:

In 2001, the San Diego City Council authorized the City Manager to execute a new agreement with Allan Company (Contractor) for the operation of the Miramar Recycling Center (Center), located at the entrance of the City's Miramar Landfill (Resolution RR-295859). The new agreement provided the City with increased revenue, services, and capital improvements, in exchange for a five-year contract that includes an automatic renewal provision. The City agreed, that after the second year of the contract, it would extend the contract on an annual basis, with Council approval. As a result, if the City Council fails to agree to an extension, the contract will be terminated in three years.

Extending the current agreement will allow Contractor to continue providing City residents with high quality services in support of the City's efforts to meet State mandated solid waste diversion goals. In 2004, Contractor has spent \$35,000 on site improvements and marketing in fulfillment of the Agreement and an additional \$68,700 on improvements and marketing beyond the scope of the Agreement. They have also increased usage 11 percent from 2002 to 2003, serving over 71,000 customers a year. In addition to traditional recycling services, the Center accepts special handling items such as appliances containing Chlorofluorocarbons (CFC) (refrigerators, freezers and air conditioners), other appliances, and cathode ray tube (CRT) devices such as computer monitors and TVs. In addition, Contractor also provides free tax paper shredding and recycling during April, cooking oil recycling, and sale of bagged Miramar Greenery compost and Recycle Or Else gear at no additional charge to the City.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

FISCAL IMPACT:

Revenues from this agreement are estimated at \$59,400 for FY 2005, \$65,400 for FY 2006, and \$77,400 per year thereafter.

Mendes/Heap/PP

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: Department of Homeland Security Buffer Zone Protection Plan Initiative.

(See City Manager Report CMR-05-016.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-770)

Authorizing the City Manager, Deputy City Manager, or his designated representative, to accept up to \$50,000 worth of equipment for each Buffer Zone Protection Plan completed and approved by the Department of Homeland Security;

Authorizing the City Manager, or his designated representative, to take all necessary actions to secure the equipment from the Department of Homeland Security.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-102: Amendment to Council Policy 700-42 Recreation Councils “Special Use Permits”.

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-737)

Amending Council Policy No. 700-42, dated October 27, 1986, titled “Recreation Councils” to allow for the issuance of “Special Use Permits” to recreation councils for periods of up to three years, as set forth in the Council Policy;

Instructing the City Clerk to add the aforesaid to the Council Policy Manual.

CITY MANAGER SUPPORTING INFORMATION:

Council Policy 700-42 directs that the City issue “Special Use Permits” to recreation councils on an annual basis. On December 7, 2004, the City Council adopted an ordinance (Ordinance Number O-19341) amending the San Diego Municipal Code, Section 22.1502, that allows for issuance of “Special Use Permits” for periods of up to three (3) years.

This action by the City Council will make Council Policy 700-42 compatible with the San Diego Municipal Code, Section 22.1502.

Herring/Oppenheim/BD

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: Appointment and Reappointment to the San Diego Planning Commission.

(See memorandum from Mayor Murphy dated 01/24/2005, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-777)

Council confirmation of the following appointment and reappointment by the Mayor to serve as members of the San Diego Planning Commission for four-year terms ending January 28, 2009:

Appointment

Robert S. Griswold
(Replacing Anthony J. Lettieri, whose term has expired)

Reappointment

Barry J. Schultz

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-104: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-408)

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

- * ITEM-105: Declaring a Continued State of Emergency Due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-680)

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-106: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-683)

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

- * ITEM-107: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-588)

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

ITEM-200: Two actions related to Additional Funding for the Central Police Garage Relocation Project.

(City Heights Community Area. District 3.)

(Continued from the meeting of January 24, 2005, Item 100, at the request of Carolyn Chase (member of the public), to address what effect additional funding will have on deferred maintenance.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-730)

Amending the Fiscal Year 2005 Capital Improvement Program Budget by increasing CIP-36-063.0, Central Police Garage Relocation, Fund No. 630221, Contributions from the General Fund;

Authorizing City Auditor and Comptroller to transfer an amount not to exceed \$85,000 from Fund No. 100, General Fund Police Department FY05 Operating Budget, to Fund No. 630221, Contributions from the General Fund;

Authorizing the City Auditor and Comptroller to appropriate and expend \$85,000 from Fund No. 630221, Contributions from the General Fund into CIP-36-063.0, Central Police Garage Relocation, for the purpose of construction;

Authorizing the expenditure of an amount not to exceed \$188,409 from Fund No. 30244, CIP-37-028.0, Undergrounding of Utilities to Sundt Construction, for the purpose of undergrounding overhead utilities on Federal Boulevard and tying those in with the new on-site utilities in the Police Garage, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department to transfer excess budgeted funds, if any, to the appropriate reserves.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-200: (Continued)

Subitem-B: (R-2005-715)

Stating for the record that the information contained in the final Mitigated Negative Declaration, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the Central Police Garage Relocation;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

CITY MANAGER SUPPORTING INFORMATION:

On September 23, 2003, the City Council authorized the award of a design build contract for the Central Police Garage Relocation (RR-298416). The project site is located at the northeast corner of Home Avenue and Federal Boulevard within the Fairmount Park neighborhood of the City Heights Community Planning Area. The 28,000 square foot Vehicle Maintenance Facility (VMF), currently under construction, will include administrative offices, vehicle service, storage space, surface parking spaces, fuel station, oil lubrication site, and vehicle wash bay. To accommodate the VMF building, the existing K-9/SWAT facility is being relocated to vacant land to the east of the pistol range and north of Federal Boulevard. No modification to the pistol range was proposed as a part of this project. This project has been coordinated extensively with the community, and includes sidewalk improvements, landscaping in accordance with the Chollas Creek Enhancement Plan, a meeting room, post construction Best Management Practices (BMP's), acquisition of parkland, and public art.

At the request of the Police Department, an additional \$85,000 of funding is being provided for improvements not originally included in the project. These include: a concrete apron around the Vehicle Maintenance Facility; dog training field lighting; additional doors and walks around the modular building at the K-9/SWAT facility, and other design changes unforeseen at the award of this contract. In addition, the contract calls for the undergrounding of all on-site utilities. The additional \$188,409 from CIP-37-028.0, Undergrounding of City Utilities, will allow the existing overhead utilities in the Federal Boulevard be undergrounded with the on-site utilities, and provide Street Lights with all the other Public Improvements being installed by the Design-Build Contractor.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-200: (Continued)

FISCAL IMPACT:

The total project cost is \$10,673,409. Previously, The City Council authorized the design-build contract for a total cost of \$8,220,000. The total cost of this action is \$273,409. Funding is available from FY 05, Police Department Operating Budget, Fund No. 100, General Fund (\$85,000) and CIP-37-028.0, Undergrounding of City Utilities, Fiscal Year 2005 Annual Allocation, Fund No. 30244, Underground Surcharge Fund (\$188,409).

Mendes/Boekanp/AO

Aud. Cert. 2500640.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

ITEM-201: Preliminary Discussions with the San Diego Chargers.

(Mission Valley and Serra Mesa Community Areas. Citywide.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-792)

Authorizing preliminary discussions with the San Diego Chargers regarding a long-term solution for the Chargers to remain in San Diego subject to voter approval;

Authorizing a City negotiating team consisting of Deputy City Manager Bruce Herring, Assistant City Attorney Leslie J. Girard, Paul Jacobs, Esq., and Daniel S. Barrett, to conduct the preliminary discussions with the Chargers on behalf of and for the City of San Diego;

Authorizing the City Manager to enter into agreements with Mr. Jacobs and Mr. Barrett for the provision of necessary consultant services in an initial aggregate amount not exceeding the City Manager's authority pursuant to the San Diego Municipal Code, subject to the City Auditor and Comptroller providing the necessary certificate that the funds are available for such purpose.

CITY MANAGER SUPPORTING INFORMATION:

On July 26, 2004, the City Council approved Supplement Number Eighth to the 1995 Agreement for Partial Use and Occupancy of San Diego Jack Murphy Stadium between the City and the San Diego Chargers by Ordinance, OO-19302. That agreement accomplished several objectives, including providing the City and the Chargers with a foundation to explore a long-term solution for the Chargers to remain in San Diego subject to voter approval. Specifically, Section 3.2 of the agreement, Long-Term Stadium Development, reads as follows: "The parties shall meet and confer on a mutually convenient basis to discuss the development of a proposal for the financing and development of a new stadium to be voted on by the general public. Neither party is obligated to participate in the financing or development of a new stadium, and the parties acknowledge that there is no assurance that (a) the parties will arrive at a mutually satisfactory proposal, (b) such a proposal will be submitted to a public vote, or (c) if submitted, such proposal will be approved by the voting public."

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-201: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

During previous discussions with the Chargers regarding their future in San Diego, it was contemplated that any mutually satisfactory proposal developed could be presented to the voters in 2006. While there is no obligation on the part of either party, preliminary discussions need to begin as soon as possible to allow time to conduct any research and work necessary to explore solutions. The San Diego Chargers have indicated they are interested in proceeding at this time. Therefore, it is recommended that the City Council authorize preliminary discussions with the San Diego Chargers regarding a long-term solution for the team in San Diego.

It is further recommended that a City team consisting of Deputy City Manager Bruce Herring, Assistant City Attorney Leslie J. Girard, Paul Jacobs, Esq., and Daniel S. Barrett be designated to conduct the preliminary discussions with the Chargers. This is the team which, along with Councilmember Zucchet, was designated by the City Council previously and successfully renegotiated the agreement with the Chargers to eliminate the ticket guarantee. Mr. Jacobs and Mr. Barrett, who have valuable expertise in sports issues, would be retained as consultants under the City Manager's authority, in an amount not-to-exceed \$100,000, to participate as members of the City team. Expenditures within the Stadium Fund would be prioritized to accommodate the associated expense.

FISCAL IMPACT:

None with this action. Consultants would be hired under the City Manager's authority, not to exceed \$100,000, and expenditures within the Stadium Fund would be prioritized to accommodate the expense.

Herring/LKC

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT